

Rural Utilities Service, USDA

§ 1773.3

in SFAS No. 71, entitled “Accounting for the Effects of Certain Types of Regulation”.

Related party has the meaning prescribed in SFAS No. 57, entitled “Related Party Disclosures”.

Related party transaction has the meaning prescribed in SFAS No. 57, entitled “Related Party Disclosures”.

Reportable condition has the meaning prescribed in SAS No. 60, entitled “Communication of Internal Control Structure Related Matters Noted in an Audit”.

RTB means the Rural Telephone Bank.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to REA with respect to administering certain electric and telecommunications programs. See 7 CFR 1700.1.

RUS Bulletin 1773-1, Policy on Audits of RUS Borrowers, is a publication prepared by RUS that contains the RUS regulation 7 CFR part 1773 and exhibits of sample audit reports, financial statements, and a management letter used in preparing audit of RUS borrowers. This bulletin is available from USDA, Rural Utilities Service, Program Development and Regulatory Analysis, 1400 Independence Ave., SW., Stop 1522, Washington, DC 20250, or available on the internet at <http://www.usda.gov/rus/>.

SAS means Statement on Auditing Standards as prescribed by the AICPA.

SEC Practice Section means the Securities and Exchange Commission Practice Section of the AICPA.

SFAS means Statements of Financial Accounting Standards as prescribed by the Financial Accounting Standards Board.

State means any state or territory of the United States, or the District of Columbia.

Uniform System of Accounts means, for telecommunications borrowers, the Uniform System of Accounts for Telecommunications Companies, prescribed by the Federal Communications Commission and published at 47 CFR Part

32, as supplemented by RUS pursuant to 7 CFR Part 1770, Accounting Requirements for RUS Telephone Borrowers, subpart B, Uniform System of Accounts, and for electric borrowers, as contained in 7 CFR Part 1767, Accounting Requirements for RUS Electric Borrowers, subpart B, Uniform System of Accounts.

[56 FR 63360, Dec. 3, 1991, as amended at 59 FR 66440, Dec. 27, 1994; 60 FR 2874, Jan. 12, 1995; 63 FR 38722, July 17, 1998; 66 FR 27835, May 21, 2001]

Subpart B—RUS Audit Requirements

§ 1773.3 Annual audit.

(a) Each borrower must have its financial statements audited annually by a CPA selected by the borrower and approved by RUS as set forth in § 1773.4.

(b) Each borrower must establish an annual as of audit date within twelve months of the date of receipt of the first advance of funds from grants and insured and guaranteed loans approved by RUS and RTB and must prepare financial statements as of the date established.

(c) Until all loans made or guaranteed by RUS have been repaid, the borrower must furnish three copies of the auditor's report, report on compliance and on internal control over financial reporting, and management letter to RUS within 120 days of the as of audit date.

(d) A borrower that qualifies as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*), the Single Audit Act Amendments of 1996 (31 U.S.C. 7505 *et seq.*) and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (copy available from the Executive Office of the President, Publication Services, 725 17th St., NW., Suite 2200, Washington, DC 20502; 202-395-7332), must comply with this part as follows:

(1) A borrower that expends \$300,000 or more in a year in Federal awards must have an audit performed and submit an auditor's report meeting the requirements of the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.

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(2) A borrower that expends less than \$300,000 in Federal awards during the year must have an audit performed in accordance with the requirements of this part.

(3) A borrower must notify RUS, in writing, within 30 days of the as of audit date, of the total Federal awards expended during the year and must state whether it will have an audit performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, or this part.

(i) A borrower that elects to comply with this part must select a CPA that meets the qualifications set forth in § 1773.5.

(ii) If an audit is performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, an auditor's report that meets the requirements of the Single Audit Act of 1984, and the Single Audit Act Amendments of 1996, will be sufficient to satisfy that borrower's obligations under this part.

(e) OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations does not apply to audits of RUS electric and telecommunications cooperatives and commercial telecommunications borrowers.

[56 FR 63360, Dec. 3, 1991, as amended at 59 FR 659, Jan. 6, 1994; 63 FR 38722, July 17, 1998; 66 FR 27835, May 21, 2001]

§ 1773.4 Borrower responsibilities.

(a) *Selection of a qualified CPA.* The borrower's board of directors is responsible for the selection of a qualified CPA that meets the requirements set forth in § 1773.5. When selecting a CPA, the borrower should consider, among other matters:

(1) The qualifications of CPAs available to do the work;

(2) The CPA's experience in performing audits of utilities; and

(3) The CPA's ability to complete the audit and submit the reports and management letter within 90 days of the as of audit date.

(b) *Board approval of selection.* The board's approval of a CPA must be recorded by a board resolution that states:

(1) The CPA meets RUS's qualifications to perform an audit; and

(2) The borrower and CPA will enter into an audit agreement in accordance with § 1773.6.

(c) *Notification of selection.* When the initial selection or subsequent change of a CPA by a borrower has been made, the borrower must notify RUS, in writing, at least 90 days prior to the as of audit date.

(1) RUS will notify the borrower, in writing, within 30 days of the date of receipt of such notice, if the selection or change in CPA is not satisfactory.

(2) Notification to RUS that the same CPA has been selected for succeeding audits of the borrower's financial statements is not required; however, the procedures outlined in this part must be followed for each new CPA selected, even though such CPA may previously have been approved by RUS to audit records of other RUS borrowers. Changes in the name of a CPA firm are considered to be a change in the CPA.

(d) *Audit engagement letter.* The borrower must enter into an audit engagement letter with the CPA that complies with § 1773.6.

(e) *Debarment certification.* The borrower is responsible for the receipt, from the selected CPA, of a lower tier covered transaction certification, as required under the provisions of Executive Orders 12549 and 12689, Debarment and Suspension, and any rules or regulations issued thereunder.

(f) *Submission of auditor's report.* The borrower must submit to RUS the required auditor's report, report on compliance and on internal control over financial reporting, and management letter as set forth in § 1773.21.

(1) An annual auditor's report, report on compliance and on internal control over financial reporting, and management letter that fail to meet the requirements detailed in this part will be returned to the borrower with a written explanation of noncompliance.

(2) The borrower must, within 60 days of the date of the letter detailing the noncompliance, submit corrected reports to RUS.

(3) If corrected reports are not received within 60 days of the date of the letter detailing the noncompliance, RUS may notify the borrower that a default has occurred under its security instrument or take other appropriate